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SUBJECT: KAZAKHSTAN: CHARGES FILED AGAINST FORMER CHAIRMAN OF
LARGEST PRIVATE BANK

REF: (A) ASTANA 0386 (B) LONDON 0712

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11. (U) Sensitive but unclassified. Not for public Internet. This cable is based on open source material and local press reports in Kazakhstan. It should be read in conduction with reftel B.

12. (SBU) SUMMARY: On February 2, the Government of Kazakhstan, represented by Samruk-Kazyna National Welfare Fund, acquired control of BTA Bank, the largest commercial bank in Kazakhstan, through the purchase of 78.14 percent of shares (reftel A). BTA Bank Chairman Muktar Ablyazov was fired the same day and, on March 2, charged with embezzlement for laundering funds illegally obtained through loans to bogus firms. END SUMMARY

GOVERNMENT TAKEOVER OF BTA BANK

13. (SBU) As reported in reftel A, Chairman of the National Bank Gregoriy Marchenko and the State Financial Supervision Agency (FSA) made a joint statement that BTA Bank had failed to fulfill liquidity ratio and equity capital adequacy ratio requirements under the Banks and Banking Activities Laws. They further noted that BTA Bank's operations had been supported by short-term loans from the National Bank for the previous several months. They explained that if the National Bank had not provided support, specifically had not given a loan in the last week of January, BTA Bank would have been in default. Despite a government commitment to buy a 25 percent interest in BTA Bank, it instead acquired a controlling share. Prime Minister Karim Masimov fired Ablyazov and First Deputy Chair Zhaksylyk Zharimbetov, telling them that they were relieved of their duties because their actions were against the law and in conflict with the interests of BTA Bank's clients and creditors.

ABLYAZOV RESPONDS AND FLEES KAZAKHSTAN

14. (SBU) In written statements to the Kazakhstani press, Ablyazov has claimed that the government's actions constitute an abuse of power and that the takeover was illegal. He has said that the present situation is a result of ongoing efforts by governmental agencies to take control of BTA Bank through any means necessary. Ablyazov alleges that the government has made withdrawals from

accounts by national and state holding companies, forced other clients to do business with other financial institutions, and excluded BTA Bank from participating in state programs. Ablyazov said "the purpose was to get control over the banks by any means, and it has been achieved." He predicted that the officials who seized private property "may use their usual methods, such as slander and criminal prosecution to justify their actions."

¶15. (SBU) On February 10, Ablyazov published an open letter to the President of Kazakhstan, rejecting accusations that the bank was only able to stay in business with short-term loans from the National Bank. He claimed that BTA Bank only borrowed small amounts from the National Bank, using securities as collateral. He also warned of the negative consequences of the change in management. Local media in Kazakhstan have speculated that Ablyazov, having achieved independent financial security and knowing of the government's plan to arrest him, has fled to London, although there has been no official confirmation of this (reftel B). Police have been unable to locate him in Kazakhstan and the Procurator General's Office (PGO) plans to file a warrant with Interpol.

ACCUSTIONS AND CHARGES AGAINST ABLYAZOV

¶16. (SBU) Director of the National Bank Gregoriy Marchenko accused Ablyazov of holding no shares in BTA Bank and borrowing money to be transferred to unknown offshore accounts. Marchenko also claimed that surveillance cameras recorded two vans removing documents from BTA Bank on January 31. He further stated that this was done by people loyal to Ablyazov in order to hide Ablyazov's activities in Russia and that Marchenko has an official letter from the Central Bank of Russia proving that approximately \$600 million was transferred by BTA Bank in Russia with fake shipping declarations from April through October 2008. Ablyazov categorically denied these allegations.

¶17. (SBU) On February 10, presidential advisor Yermukhamet

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Yertysbayev stated that Ablyazov's removal was not politically motivated. On March 2, the PGO filed charges against Ablyazov and first deputy Zhaksylyk Zharimbetov at the request of the bank's management. Charges were brought under Article 176 of the Criminal Code for illegal acquisition and embezzlement of property. The PGO's case alleges that the embezzled property was laundered through multiple loans to fake companies, secured by the same piece of land.

An order was sought seizing all assets owned by individuals and companies alleged to have been involved in illegal transactions with BTA Bank. Yertysbayev also recommended that entities involved in business relations with Ablyazov immediately verify transactions and report to the financial police. At the same time, Sholpan Ablyazova, Ablyazov's cousin, said that her son, Tair Dyusembekov, was arrested on the basis of his relationship to Ablyazov. On March 2, Dyusembekov, Director of Agento-S LLP, was arrested and held in a detention facility by the Committee for National Security (KNB) for allegedly overestimating the value of properties owned by Ablyazov's affiliated companies. KNB investigators in Almaty believe that, using overestimated appraisals, BTA Bank was financing companies, including offshore companies, that were transferring funds to Ablyazov's personal accounts and his affiliated companies.

OFFICIAL STATEMENT BY PROSECUTOR GENERAL'S OFFICE

¶18. (U) On March 20, the PGO issued a press release on the case. A special prosecutor was appointed to lead an interagency group investigating Ablyazov and Zharimbetov. The PGO announced that it was "a proven fact that Ablyazov and his vicarious agents were giving credits illegally to multiple local and offshore companies intentionally created for that purpose, thus providing the outflow of the capital of BTA Bank for the period of 2005 to 2008." The investigative group initiated several criminal cases, which are currently in the pre-trial investigation stage. The PGO provided evidence of Ablyazov's knowledge that charges would be filed and his preparations to flee the country. They also explained some of his schemes. In one deal, for example, Ablyazov transferred \$200 million from BTA Bank to Tortuga Limited, which he allegedly owned and registered in the Seychelles Islands, for the purchase of land

in Moscow for construction of an apartment complex. Tortuga Limited then bought the land from a subsidiary company. In another scheme, Ablyazov purchased a small amount of shares in companies that would take loans from BTA Bank to buy out his shares at an inflated price.

ABLYAZOV BIO NOTES

¶9. (SBU) Ablyazov was one of the founders of the Democratic Choice of Kazakhstan movement in 2001. In 2002, he was imprisoned after being convicted of abuse of authority, allegedly while Minister of Environment from 1998 through 1999. The president pardoned him in ¶2003. Though he went into private business after his release, he is rumored to be the primary source of financial support for the unregistered opposition party Alga.

FUTURE OF BTA BANK UNCERTAIN

¶10. (SBU) The assets of BTA Bank increased in value by 10 percent in 2008, from 2.649 trillion tenge (current exchange rate approximately 150 tenge to the dollar) to 2.915 trillion tenge. However, its profits decreased to 12.687 billion tenge, from 48.683 billion tenge the previous year. According to the Interfax Center of Economic Analysis, BTA Bank had the seventh highest asset base among CIS banks and the first among Kazakhstani commercial banks. Since the government's takeover, local media have speculated that Bulat Utemuratov, former head of Management of the Presidential Administration, or Russia's Sberbank may bid for the bank, but no such offers have been made.

MANAGEMENT CHANGES AND CHALLENGES

¶11. The bank's management faces many difficult challenges. For example, customers withdrew \$700 million in the weeks following the government's takeover on February 2, and on February 13, shares of BTA Bank were down to 1,202 tenge from 14,000 tenge on January 29. In an effort to save the bank, on February 2, the government appointed Anvar Saidenov, former director of the National Bank, as

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Chairman of the Managing Board and Arman Dynaev, current co-chairman of the Managing Board of Samruk-Kazyna, as Chairman of the Board of Directors.

MILAS